



Town of Arlington, Massachusetts

Remote Participation Details

Summary:

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20 relating to the COVID-19 emergency, the Arlington Zoning Board of Appeals meetings shall be physically closed to the public to avoid group congregation until further notice. The meeting shall instead be held virtually using Zoom.

Please read Governor Baker's Executive Order Suspending Certain Provision of Open Meeting Law for more information regarding virtual public hearings and meetings: <https://www.mass.gov/doc/open-meeting-law-order-march-12-2020/download>

The Zoning Board of Appeals is inviting you to a scheduled Zoom meeting.

Topic: Zoning Board of Appeals, Meeting/Hearing

Time: October 13, 2020, 7:30 PM Eastern Time (US and Canada)

Hi there,

You are invited to a Zoom meeting.

When: Oct 13, 2020 07:30 PM Eastern Time (US and Canada)

Register in advance for this meeting:

<https://town-arlington-ma-us.zoom.us/join/tJYqfuCoqD0oGdywN1KfKOuw8IMqSPCsk1YO>

After registering, you will receive a confirmation email containing information about joining the meeting.

Meeting ID: 927 9906 6238

Find your local number: <https://town-arlington-ma-us.zoom.us/join/adNWeNXzLr>

Dial by Location: 1-646-876-9923 US (New York)



Town of Arlington, Massachusetts

Thorndike Place

ATTACHMENTS:

Type	File Name	Description
Reference Material	BETA_September_2020_Conceptual_Plan_Civil_-_Wetlands_Review_8Oct20.pdf	BETA September 2020 Conceptual Plan Civil - Wetlands Review 8Oct20
Reference Material	_3515_Mugar_Property.pdf	_3515 Mugar Property
Reference Material	Thorndike_March_2020_Site_Plan.pdf	Thorndike_March_2020_Site_Plan
Reference Material	Thorndike_Sept_2020_Site_Plan.pdf	Thorndike_Sept_2020_Site_Plan
Reference Material	ZBA_Transmittal_2020-09-28-1.pdf	Application - Information Forms - FINAL
Reference Material	ACC_Comment_Letter_to_ZBA_Thorndike_Place_09OCT2020.pdf	Application - Request for Variance - FINAL
Reference Material	ALR_Supplemental_Response_Completeness_Review_(00172191xBC4F6).pdf	ALR Supplemental Response_Completeness Review (00172191xBC4F6)
Reference Material	Thorndike_Place_Notes_from_20_0911.pdf	Thorndike Place Notes from 20_0911
Reference Material	Thorndike_floodplain_comparison_(1).pdf	Thorndike floodplain comparison
Reference Material	Detailed_Agenda_for_Discussing_Thorndike_Place_20_1013.pdf	Detailed Agenda for Discussing Thorndike Place 20_1013

October 08, 2020

Jenny Raitt, Director, Department of Planning and Community Development
Arlington Town Counsel
50 Pleasant Street
Arlington, MA 02476

**Re: Thorndike Place - Arlington, MA
Comprehensive Permit Civil / Site Peer Review**

Dear Ms. Raitt:

BETA Group, Inc. (BETA) has received BSC Group's September 28, 2020 *Thorndike Place Revised Development Program* addressed to the Arlington Zoning Board of Appeals (ZBA) that included the following:

- a cover letter summarizing the Applicant's path forward with respect to the design development of the newly proposed conceptual site plan.
- the March 13, 2020 and September 18, 2020 Thorndike Place Overall Site Plan colored conceptual site plans and
- a comparison table of the potential wetland resource area impacts.

It is BETA's understanding that the Applicant is in the process of developing detailed design plans based on the September 2020 Overall Site Plan and are looking for input from the ZBA and the Conservation Commission.

According to BSC, the Applicant will be revising their site development plan to avoid or minimize wetland resource area impacts under both the MA Wetlands Protection Act and the Arlington Wetlands Protection Bylaw and their implementing Regulations. Based on BETA's review of the September 28, 2020 submittal to the ZBA, they will be reducing the number of buildings, parking spaces, pavement, and overall footprint of the development. This will significantly reduce impacts to resource areas jurisdictional under the MA Wetlands Protection Act – namely Bordering Land Subject to Flooding/100-year floodplain. They have also eliminated impacts to locally protected Isolated Vegetated Wetland and the Bylaw's 25 and 50-ft No Disturb Zones.

Since the September 2020 Overall Site Plan is conceptual, there will likely be design changes to project development aspects (e.g. emergency vehicle access around the proposed building, final site grading, etc.) and further, no mitigation (floodplain fill compensation) or stormwater management BMPs are shown. Therefore, there is no current understanding of the potential extent of impact to the 100-foot Adjacent Upland Resource Area or the 100-foot Buffer Zone to local and state resource areas under this current design.

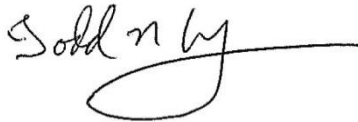
October 7, 2020

Page 2 of 2

BETA Group was retained to perform a civil / site / stormwater design, environmental, and traffic peer review of the Comprehensive Permit application for the proposed Thorndike Place 40B housing project. Part of this review included an overall analysis of the existing site to confirm its suitability for the proposed project. Once we receive the next design phase plans and supporting documentations, BETA will analyze and provide comment on its site suitability and impacts to resource area and their protected interests as we presented in our August 12, 2020 comment letter to the Department of Planning and Economic Development.

If you have questions about any of these comments, please feel free to contact me at (401) 333-2382.

Very truly yours,
BETA Group, Inc.



Todd Undzis, P.E.
Project Manager



Marta Nover
Vice President

cc: Douglas W. Heim, Arlington Town Counsel



Town of Arlington
Zoning Board of Appeals
51 Grove Street
Arlington, Massachusetts 02476
781-316-3396
www.arlingtonma.gov

LEGAL NOTICE

CONTINUED HEARING

The Zoning Board of Appeals hereby gives notice that it will hold a Public Hearing on Tuesday, October 13, 2020, beginning at 7:30 P.M. Said hearing will be conducted remotely via "Zoom" to consider the application of Arlington Land Realty, LLC for the approval of a Comprehensive Permit under M.G.L. Chapter 40B, Sections 20-23 and the regulations promulgated thereunder, 760 CMR 56.00 et seq, for the construction of a two hundred and nineteen (219) dwelling unit development Thorndike Place, on a 17.7+/- acre parcel. Such property is identified as Assessor's Parcel ID. Nos. 17-5-6A; 16-8-8; 16-8-2; 16-8-3; 16-8-4; 16-8-5; 16-8-6; 16-8-7A; 13-12-5A; 14-2-8; and 14-2-5 (also known as the "Mugar Property".)

"Due to the overwhelming interest in this project, as evidenced by the amount of public comment received to date, we anticipate that we will need to limit the amount of oral public comment presented at this hearing. We strongly encourage public comment to be submitted in writing to the Board. We also note that this hearing is only one in a series of hearings going forward with respect to this application. The application, plans, request for waivers, and related submissions are available on the Town of Arlington website, Zoning Board of Appeals."

Please visit the Town of Arlington Zoning Board of Appeals website for "Zoom" invitation ID, and additional material as it becomes available. This information will be posted 48 hours prior to the hearing.

DOCKET NO 3515

Christian Klein, R.A. Chair

Zoning Board of Appeals

zba@town.arlington.ma.us



PROFESSIONAL ENGINEER

DATE

THORNDIKE PLACE

DOROTHY ROAD
IN
ARLINGTON
MASSACHUSETTS
(MIDDLESEX COUNTY)
OVERALL
SITE PLAN

MARCH 13, 2020

REVISIONS:		
NO.	DATE	DESC.

PREPARED FOR:
ARLINGTON LAND REALTY, LLC
84 SHERMAN STREET, 2ND FLOOR
CAMBRIDGE, MA 02140

BSC GROUP
803 Summer Street
Boston, Massachusetts
02127
617 896 4300

© 2020 BSC Group, Inc.
SCALE: 1" = 100'
FILE: 2340700\C\2340700-SP
DWG:
JOB: NO: 23407.00 SHEET C-100

ISSUED FOR PERMITTING
NOT FOR CONSTRUCTION



PROFESSIONAL ENGINEER _____ DATE _____

THORNDIKE PLACE

DOROTHY ROAD
IN
ARLINGTON
MASSACHUSETTS
(MIDDLESEX COUNTY)

OVERALL
SITE PLAN

MARCH 13, 2020

REVISIONS:		
NO.	DATE	DESC.
1	9/18/20	NEW BUILDING FOOTPRINT

PREPARED FOR:
ARLINGTON LAND REALTY, LLC
84 SHERMAN STREET, 2ND FLOOR
CAMBRIDGE, MA 02140

BSC GROUP
803 Summer Street
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02127
617 896 4300

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SCALE: 1" = 50'
0 25 50 100 FEET
FILE: 2340700\C\2340700-SP
DWG.:
JOB. NO: 23407.00 SHEET C-101

Sent Via Email

September 28, 2020

Christian Klein, Chair
Arlington Zoning Board of Appeals
51 Grove Street
Arlington, MA 02476

RE: Thorndike Place
Revised Development Program

Chairman Klein:

Representatives from the Board of Appeals, the Department of Planning and Community Development, the Legal Department, and the Applicant for Thorndike Place met via conference call on Friday, September 11, 2020. Based on wetland resource area comments received from the Town's peer-review engineers, BETA Group, and the Conservation Commission, the Applicant is proposing to revise the site plan to avoid or minimize wetland resource area impacts under both the Wetlands Protection Act and the Arlington Wetlands Protection Bylaw and implementing regulations. On the call, it was agreed to have the Applicant's engineer provide a revised site plan with information comparing the changes in potential wetland resource area impacts from the site plan submitted in March 2020 to the revised site plan dated September 28, 2020. It was also agreed that the revised site plan would be discussed during a working session before the Conservation Commission's October 1 meeting.

Attached, please find two colored site plans. The first is the site plan submitted in March 2000 and presented at the August 25 ZBA hearing. The second site plan presents the applicant's proposed changes to the development program. In the revised plan, the proposed townhomes have been eliminated, the footprint of the multi-family building has been modified and the overall development footprint has been reduced. The revised site plan greatly reduces floodplain impacts, removes the buildings entirely from the 25-foot No Disturb Zone and 100-foot Buffer/AURA, and minimal site improvements are proposed within the 100-foot Buffer/AURA.

Below is a comparison of the of the potential wetland resource area impacts between the original and revised site plans. The applicant has developed a revised site plan striving to avoid or minimize impacts. As shown in the tables below, potential impacts have been significantly reduced with the revised plan.

Engineers

Environmental
Scientists

Custom Software
Developers

Landscape
Architects

Planners

Surveyors



Original Site Plan – March 2020

Resource Area	Building (SF)	Pavement (SF)	Other (SF)	Total (SF)
Floodplain (WPA and local)	14,468	45,892	36,464	96,824
Isolated Wetland (local)	0	193	50	243
Bordering Vegetated Wetland (BVW) (WPA and local)	0	0	0	0
25' No Disturb Zone – Isolated (local)	593	4,454	1,561	6,608
25' No Disturb Zone – BVW (WPA and local)	0	0	0	0
100' Buffer/AURA - Isolated (local)	10,488	19,218	9,102	38,808
100' Buffer/AURA - BVW (WPA and local)	11,011	0	0	11,011

Revised Site Plan – September 28, 2020

Resource Area	Building (SF)	Pavement (SF)	Other (SF)	Total (SF)
Floodplain (WPA and local)	5,457	439	11,341	17,237
Isolated Wetland (local)	0	0	0	0
Bordering Vegetated Wetland (BVW) (WPA and local)	0	0	0	0
25' No Disturb Zone – Isolated (local)	0	0	0	0
25' No Disturb Zone – BVW (WPA and local)	0	0	0	0
100' Buffer/AURA - Isolated (local)				
100' Buffer/AURA - BVW (WPA and local)	0	477	726	1,203



We look forward to discussing the revised plan with the Conservation Commission and BETA at the working session on October 1.

Please call me at 781-710-7280 or email me at jhession@bscgroup.com if you have any questions or require additional information.

Very truly yours,

BSC Group, Inc.

A handwritten signature in black ink, reading "John Hession".

John Hession, P.E.
Director of Land Development

cc: zba@town.arlington.ma.us
Richard Vallarelli, ZBA
Emily Sullivan, Conservation
Susan Chapnick, Conservation Commission
Jenny Raitt, Planning and Community Development
Marta Nover, BETA
Stephanie Kiefer, Smolak & Vaughan
Gwen Noyes and Arthur Klipfel, Arlington Land Realty



TOWN OF ARLINGTON

MASSACHUSETTS

CONSERVATION COMMISSION

Oct 9, 2020

Zoning Board of Appeals
Town of Arlington
730 Massachusetts Avenue
Arlington, MA 02474

**RE: Thorndike Place – Application for Comprehensive Permit
Third Set of Comments from Conservation Commission
Applicant's September 28, 2020 submittals**

Dear Chairman Klein and Members of the Board:

The Arlington Conservation Commission (hereinafter "ACC") provides this third set of comments to the ZBA, this time addressing the information Arlington Land Realty LLC (the "Applicant") provided on September 28, 2020 to supplement its Comprehensive Permit Application, filed with the Town on or about August 31, 2016 and supplemented in March 2020 (the "Application"). The ACC provided initial comments to the ZBA on the Application by letter dated September 26, 2016 and a second set of comments on July 9, 2020 based on the March 2020 submittals.

The Supplemental Information included two documents provided by BSC Group (Applicant's engineer):

1. Thorndike_Sept_2020_Site_Plan.pdf (attached): revised site plan
2. ZBA_Transmittal_2020-09-28.pdf (attached): a transmittal letter summarizing the changes in potential wetland resource area impacts in the revised site plan vs. the plan submitted in March 2020

The ACC is pleased that the revised conceptual site plan is responsive to many of our prior comments and appears to move the proposed project outside of or further from wetland resource areas, as well as removing the direct access to Route 2, which would have gone directly through Bordering Vegetated Wetlands ("BVW"). The ACC provides says this with the caveat that the boundary of BVW and other resource areas on the site have not yet been verified by the BETA Group.

The ACC's prior comments concerning the value of the wetland resources, vegetation replacement, floodplain, and stormwater impacts are not reiterated herein and are still valid.

This comment letter focuses on the September 2020 conceptual plan, which was discussed at the ACC Working Session on October 1, 2020 with the BCS Group, the BETA Group (the ZBA's peer reviewer), and members of the public.

Based on the Working Session discussion and documents, the ACC provides the following comments and recommendations.

Issue #1. Wetlands Delineation

There is no current legally valid delineation under either the state Wetlands Protection Act (G.L. c.141, s. 30, the "Act") or the Town of Arlington Wetlands Protection Bylaw (Title V, Article 8, the "Bylaw") of the boundaries of the BVW and other wetland resource areas on the project site. The ACC notes that the wetlands delineation performed in January 2020 and shown on any version of project plans has not been verified by BETA Group.

- The BSC Group has acknowledged the potential limitations of accuracy of a winter wetland delineation, a limitation also previously stated by both ACC and BETA. BSC Group noted that the September 2020 plan includes, in their opinion, the most conservative depiction of the wetland delineation, using both the January 2020 delineation and prior 2009 delineation (which showed isolated wetlands).
- Field data sheets, needed for BETA Group to verify the delineation of wetland boundaries, inexplicably still have not been provided. These data sheets, once completed by the person performing the delineation will provide information on the soil, vegetation, and hydrology to support the January 2020 delineation of BVW. Field data sheets also are needed for the isolated wetlands now acknowledged and shown on the September 2020 plan.

Recommended Action: BSC Group provide as soon as possible the wetland data forms and any field notes to BETA to support the BSC's wetland boundary delineations so that BETA Group can perform their review. At the Working Session, BSC Group agreed to do so.

Issue #2. Floodplain & Compensatory Flood Storage

The Applicant still has not provided sufficient information to verify the calculation of flood storage volume that will be lost under the revised project configuration, and calculation of compensatory flood storage at each elevation.

- The Revised September 2020 plan shows reduction of buildings and other structures within the floodplain compared to the March 2020 plan.
- BSC Group stated that they would not be providing the floodplain elevation calculations or calculations for compensatory storage at this time since the September 2020 revision is at a "conceptual" stage.
- Since BSC Group is not providing floodplain delineation or calculations for BETA Group to review at this time, the ACC and ZBA only have their "word" on the potential advantages of the

September 2020 revision compared to the March 2020 plan, based on the summary table in the September 2020 ZBA Transmittal letter, which shows a significant decrease of floodplain impacts from 96,824 sq ft (March 2020) to 17,237 sq ft (September 2020). However, flood storage is measured in cubic feet, not square feet.

- Possible areas of the site for 2:1 compensatory flood storage (as required by the Bylaw and Climate Change Resilience standards) discussed included the northwest optional parking area on the revised September 2020 plan (if not required by ZBA for surface parking) and potential locations within the Adjacent Upland Resource Areas (“AURA”) within the floodplain, in consideration of wildlife habitat and vegetation evaluations (see below) and the potential for opportunities for floodplain restoration.

Recommended Action: ACC recommends that the ZBA require 2:1 Compensatory Flood Storage, consider the northwest surface parking area as a potential location for compensatory flood storage as it is outside of the AURA, require a wildlife habitat evaluation and vegetation evaluation to determine other potential areas for compensatory flood storage on-site, and require floodplain delineation and supporting information be provided to for BETA Group to verify floodplain delineations, flood storage volume lost, and compensatory flood storage prior to the close of the ZBA’s hearing.

Issue #3. Stormwater Management

The ACC cannot determine whether the September 2020 revision meets the Stormwater Management Standards because the Applicant still has not submitted the necessary detailed stormwater management analysis that includes results of computer modeling using HydroCAD software.

- BSC Group stated that they would not be providing the stormwater calculations at this time since the September 2020 revision is at a “conceptual” stage.

Recommended Action: ACC recommends that the ZBA require stormwater calculations for BETA Group verification prior to the close of the permit hearing.

Issue #4. Evaluation of Wildlife Habitat & Vegetation

Plant size, abundance, and variety are generally proportional to habitat value; thus, large wooded areas with a variety of native trees and understory plants are of greatest habitat value. Wildlife habitat is significant to the interest of the Bylaw and vegetated resource areas, including isolated wetlands, are protected resources with protected buffer areas (the AURA).

- As a follow-on to evaluation of potential locations for 2:1 compensatory flood storage on-site, the wildlife habitat and vegetation need to be evaluated to understand the functions and values in the resource areas. With this information, BETA Group and ACC can evaluate the potential locations for least impact to the functions and values of the resource areas and/or opportunities for restoration coincident with siting compensatory flood storage within resource areas.

Recommended Action: ACC recommends that the ZBA require a wildlife habitat evaluation and vegetation evaluation to provide a better understanding of the potential loss of habitat within isolated wetlands and AURA zones and to help inform BETA Group’s review of compensatory flood storage locations and opportunities for floodplain restoration.

Oct 09, 2020

We hope the ZBA finds the above comments helpful. Please contact us should you have questions. I and other ACC members plan on attending the ZBA's hearing on the Application on October 13, 2020.

Very truly yours,

Susan

Susan Chapnick, Chair
Arlington Conservation Commission

Enclosures:

Thorndike_Sept_2020_Site_Plan.pdf

ZBA_Transmittal_2020-09-28.pdf



PROFESSIONAL ENGINEER _____ DATE _____

THORNDIKE PLACE

DOROTHY ROAD
IN
ARLINGTON
MASSACHUSETTS
(MIDDLESEX COUNTY)

OVERALL
SITE PLAN

MARCH 13, 2020

REVISIONS:		
NO.	DATE	DESC.
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PREPARED FOR:
ARLINGTON LAND REALTY, LLC
84 SHERMAN STREET, 2ND FLOOR
CAMBRIDGE, MA 02140

BSC GROUP
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02127
617 896 4300

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SCALE: 1" = 50'
0 25 50 100 FEET
FILE: 2340700\C\2340700-SP
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JOB. NO: 23407.00 SHEET C-101

Sent Via Email

September 28, 2020

Christian Klein, Chair
Arlington Zoning Board of Appeals
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Revised Development Program

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Very truly yours,

BSC Group, Inc.

John Hession, P.E.
Director of Land Development

cc: zba@town.arlington.ma.us
Richard Vallarelli, ZBA
Emily Sullivan, Conservation
Susan Chapnick, Conservation Commission
Jenny Raitt, Planning and Community Development
Marta Nover, BETA
Stephanie Kiefer, Smolak & Vaughan
Gwen Noyes and Arthur Klipfel, Arlington Land Realty

MEMORANDUM

To: Arlington Zoning Board of Appeals
Fr: Stephanie Kiefer, Esq.
Re: Supplemental Response to Completeness Review Memo, Thorndike Place
Date: September 25, 2020

This Supplemental Response clarifies and further supplements Applicant's Completeness Review Memorandum submitted to the Board on or about March 19, 2020.

Completeness Review Summary and Supplemental Responses

The Applicant submits its responses to the Completeness Review memorandum, as revised by Attorney Witten on July 7, 2020. As reference, the Applicant has previously responded to the completeness of its Comprehensive Permit Application in March 2020. To the extent that the local regulations requested additional information that was not included within the original application submittal, the Applicant had the same within its waiver list, either seeking a full waiver or referencing that the information would be provided during the public hearing process.¹ The below supplemental response further clarifies and, where applicable, proposes submittal timeframes responsive to the Board's request.

Project Eligibility Documentation – Section 3.2.1-3.3.4²

The local regulations at Section 3.2.1 to 3.2.4 mirror the project eligibility requirements of the 40B regulations, as contained at 760 CMR 56.04(1). The Completeness Review memo (as updated July 7, 2020) asserted that the Board may question the Subsidizing Agency's findings of eligibility, specifically whether the Applicant was a limited dividend entity³, as such finding was made within the MassHousing December 5, 2015 Project Eligibility letter.

Response: 760 CMR 56.04(6) (Conclusive Nature of Determination) provides that a Subsidizing Agency's issuance of a Project Eligibility letter is "conclusive" as to whether the project and applicant have satisfied the project eligibility requirements; it states in relevant part: "[i]ssuance of a determination of Project Eligibility *shall be considered by the Board... to be conclusive evidence* that the Project and the Applicant have satisfied the project eligibility requirements of 760 CMR 56.04(1)"

¹ As referenced in the Comprehensive Permit Application, Tab 5, Applicant sought waivers from certain provisions contained in Sections 3.1, 3.2, 3.2.5, 3.2.7, 3.2., 3.2.11, 3.2.13, 3.2.14 and 3.2.15 of the local 40B regulations.

² The Section references in Applicant's response correspond to those references of the local 40B regulations referenced in the Completeness Review memo.

³ One of the project eligibility requirements is that the 40B applicant is either a public agency, a non-profit or a limited dividend entity. See 760 CMR 56.04(1)(a).

As previously submitted within the Comprehensive Permit Application (Tab 4), MassHousing issued its Project Eligibility Letter on December 5, 2015, confirming that the Applicant met the general eligibility standards under the New England Fund (“NEF”) housing subsidy program and that Applicant had entered into an “Acknowledgement of Obligations” to restrict its profits. In Finding F of the Project Eligibility letter, MassHousing confirmed that Applicant will satisfy limited dividend entity.

Preliminary Site Plans – Section 3.2.5

Under the Arlington Comprehensive Permit regulations, information to be shown on Preliminary Site Plans. The supplemental Completeness Review memorandum commented on the following subparts of Section 3.2.5:

- a) Subpart 3.2.5.1 – references that Preliminary Site Plans include existing wetland resource areas protected under the State Act and the Arlington Wetlands Protection Regulations, including floodplains. Within the supplemental Completeness Review memorandum, a comment stated “it is unclear” whether the Existing Conditions Plan (Sheet C-100 of the March 13, 2020 plan set) satisfied the condition. The brief comment did not further detail what was unclear (e.g., whether the comment questioned the delineations or whether suggested that input from the Conservation Commission was sought).
- b) Subpart 3.2.5.4 – references that significant environmental features be included on Preliminary Site Plans. The supplemental Completeness Review memorandum suggested that significant environmental features were not shown on the updated, March 13 Preliminary Site Plan.
- c) Subpart 3.2.5.5 – references that Preliminary Site Plans include proposed stormwater management. The supplemental Completeness Review memorandum commented that proposed stormwater management was not shown. on the updated, March 13 Preliminary Site Plan.
- d) Subpart 3.2.5.7 – references that proposed lighting and photometric analysis be shown on Preliminary Site plans and otherwise included. The supplemental Completeness Review memorandum commented that lighting and photometric analysis were not included.

Response: Without commenting upon the accuracy or inaccuracy of the July 7, 2020 supplemental Completeness Review’s assessment of the information contained within the revised Preliminary Site Plans (dated March 13, 2020), these comments are noted.

As informally conveyed to the Town, the Applicant will be presenting a revised project design to be presented in preliminary concept plan to the Board, BETA Group and the Conservation Commission. This revised design concept responds to comments made within the August 5 Civil/Site Peer Review comments prepared by BETA Group together with comments of the Conservation Commission, in writing and verbally by the Commission’s Chairwoman at the August 25, 2020 Board hearing. The Applicant will be submitting a revised design in its updated concept plan to the Board, the Department of Planning and Community Development, the Conservation Commission and BETA on or about August 28, 2020. The Applicant and its engineers will participate in a work session with the Conservation Commission and BETA

Group in early October (October 1) and present the modified concept plan/comparison plan document at the October 13, 2020 Board hearing. With feedback received during the Commission work session and Board hearing, Applicant will proceed to prepare detailed drawings, to include the information set out in Section 3.2.5 of the local regulations, by November 3, 2020, excepting full compliance with subpart 3.2.5.4 (significant environmental features such as ledge outcrops, scenic views and trees greater than 24" dbh). Such waiver request remains given the size of the project locus (of which only a small portion is proposed for development) and the difficulty to otherwise depict all such features over the entire undeveloped locus.

Report on Existing Site Condition – Section 3.2.6

The supplemental Completeness Review memo states generally that the site conditions report is incomplete and/or inconsistent with Section 3.2.6 requirements.

Response: As reflected by 760 CMR 56.05(2)(b) of the State 40B regulations, and/or Section 3.2.6 of the local 40B regulation, to the extent not waived, information on existing site conditions may be combined with the preliminary site plans. The submitted March 13, 2020 updated site plans included such information as to the surrounding areas, location/nature of existing buildings, wetlands, street elevations, etc. The original application also included a narrative on existing site conditions, at pp. 14-15 of the 40B Application and photographs accompanying the same.

As addressed above, revised project design plans/engineered drawings will be submitted to the Board, DPCD, Conservation Commission and BETA Group on November 3; at that time, an updated report on existing site conditions will also be submitted.

Preliminary Scaled Architectural Drawings – Section 3.2.7

The review memo generally states preliminary architectural plans are not complete and/or not consistent with local requirements, but without specificity of alleged incompleteness. The supplemental Completeness Review memorandum states that the March 2020 updated architectural drawings fail to identify construction type and exterior finish.

Response: As referenced above, upon receiving feedback informed during the upcoming October 13 public hearing on the revised project design, Applicant will submit its updated scaled architectural plans on November 3, 2020, including typical floor plans, typical elevations and sections, construction type and proposed exterior finish and such additional information as set out in Section 3.2.7, if relevant based on setbacks and building heights

Utility Plans – Section 3.2.9

The supplemental Completeness Review memo commented that utility plan information provided within the March 13, 2020 plan set was “incomplete” and/or “inconsistent,” No further information was provided as to what information was deemed incomplete and/or inconsistent.

Response: As addressed above, revised project design plans/engineered drawings will be submitted to the Board and BETA Group on November 3; an updated utility plan will be included in the November 3 submission. Applicant will review with the Project Engineer should there be any associated waiver sought under the local stormwater bylaw, low impact development guidelines or best management practices and will include the same within the updated waiver list, as may be applicable.

Recreation and Open Space Amenities – Section 3.2.10

The supplemental Completeness Review memo commented that recreational and open space amenities information provided within the March 13, 2020 plan set was “incomplete” and/or “inconsistent,” No further information was provided as to what information was deemed incomplete and/or inconsistent.

Response: As addressed above, revised project design plans/engineered drawings will be submitted to the Board and BETA Group on November 3; the submission will include the recreation and open space amenities/areas to be set aside within the locus per Section 3.2.10.

List of Exemptions – Section 3.2.11

The supplemental Completeness Review memorandum stated the updated (March 19, 2020) List of Requested Waivers did not comply with Section 3.2.11, stating that certain requests were “blanket” requests.

Response: As addressed to the Board within the public hearings on this project, a 40B project list of requested waivers is not static; instead, it becomes revised, further defined and modified based on the public hearing process and changes to the project design as may arise within such project.

760 CMR 56.05(7), states: “the Applicant may request Waivers, as listed in the application *or as may subsequently arise during the hearing*, and the Board shall grant such Waivers as are Consistent with Local Needs and are required to permit the construction and operation of the Project.” (Emphasis supplied).

The Applicant will submit a revised waiver list together with its submittal of revised project design plans/engineered drawings with the November 3, 2020 submittal. Consistent with 760 CMR 56.05(7), it should be noted that within the ongoing public hearing process, the waiver list is expected to be further revised/refined⁴.

⁴ The Applicant notes that Section 3.2.11 of the local 40B regulations is inconsistent with Chapter 40B and its regulations, as it relates to waiver requests. 760 CMR 56.05(2)(h) provides only that a list of requested waivers accompany the Comprehensive Permit Application. A Chapter 40B waiver list is not required to include a detailed analysis of each requirements, the location on the plan for which it is sought and a “complete explanation of why the exception is required to keep the project from becoming uneconomic,” as stated under Section 3.2.11 of the local

Pro Forma – Section 3.2.12

The supplemental completeness memo commented that the pro forma provided did not comply with Section 3.2.12.

Response: Under 760 CMR 56.05(2) (Elements of Submission, Filing Fees), the state regulations contain no requirement for an application to include a pro forma⁵. As a courtesy, the Applicant has previously provided the Board with a copy of the Pro Forma that accompanied its Project Eligibility application to MassHousing.

As previously addressed at the public hearings, the Board is not permitted to review a *pro forma* until much later in the public hearing process, and *only* if certain preconditions have been met. See 760 CMR 56.06(a) and (b), excerpted below. The Board cannot otherwise undertake review of financials. See *White Barn Lane, LLC v. Norwell Zoning Board of Appeals*, Decision, HAC Docket No. 08-05 (Decision dated July 18, 2011).

760 CMR 56.05(6) Review of Financial Statements.

- (a) A Board may request to review the *pro forma* or other financial statements for a Project *only after* the following preconditions have been met:
1. other consultant review has been completed.
 2. the Applicant has had an opportunity to modify its original proposal to address issues raised;
 3. the Board has had an opportunity to propose conditions to mitigate the Project's impacts and to consider requested Waivers; and
 4. the Applicant has indicated that it does not agree to the proposed condition(s) or Waiver denial(s) because they would render the project uneconomic. A Board may not conduct review of a *pro forma* in order to see whether a Project would still be economic if the number of dwelling units were reduced, unless such reduction is justified by a valid health, safety, environmental, design, open space, planning or other local concern that

regulation. Chapter 40B and its regulations instead provide that unless the municipality has achieved the statutory minimum (or otherwise satisfied one of the stated grounds under Section 56.03(1), in accordance with Section 56.03(8), there is a presumption that the need for Affordable Housing outweighs Local Concerns. It is noted that Arlington has not met the statutory minimum; likewise, in the appeal brought by the Board, the Housing Appeals Committee issued its Final Decision after an evidentiary hearing, holding that the Town had not satisfied the GLAM threshold. To the extent that Section 3.2.11 is not otherwise inconsistent with Chapter 40B (and therefore unavailing), Applicant will include such a waiver request with in its revised waiver list to be submitted on November 3.

⁵ This local submission requirement, requesting a *pro forma* to be submitted with a Comprehensive Permit Application, contradicts and is inconsistent with Chapter 40B and its regulations. Per 760 CMR 56.05, a Board may only adopt rules, "not inconsistent with" Chapter 40B. Section 3.2.12 is inconsistent with Chapter 40B's implementing regulations at 760 CMR 56.06(a) and 56.06(b), which regulations detail the preconditions that must be met before the Board can request the Applicant to submit a *pro forma*.

directly results from the size of a project on a particular site, consistent with 760 CMR 56.07(3)⁶.

(b) If the Applicant does not agree to some or all of the proposed permit conditions or Waiver denials because they would render the Project Uneconomic, [then] the Board may ask that the Applicant submit its *pro forma*, in form satisfactory to the Subsidizing Agency, and revised as necessary to reflect the additional cost of meeting those conditions and/or denials...

Notwithstanding this objection to the conflict between Chapter 40B regulations and cases decided thereunder, and without waiving any rights to object thereto, the updated waiver list will continue to include a waiver of the submittal of a pro forma prior to the satisfaction of the preconditions under 760 CMR 56.06(a) and (b). as part of the application.

Impact Analysis (Environmental and Municipal Facilities)– Section 3.2.13 and 3.2.15

The supplemental Completeness Review memo asserts that the impact analysis is incomplete.

Response: An impact analysis as described in Section 3.2.13 and 3.2.15 of the local 40B regulations are not otherwise required as part of a Comprehensive Permit regulations at 760 CMR 56.05. The Applicant specifically requested a waiver of the timing of such analysis. In light of the updated schedule contemplated with a revised project design, the submission of an environmental and municipal facilities analysis will be better informed as to project revisions (and related impact on the natural and built environment) subsequent to the November 24, public hearing. The Applicant suggests providing its impact analysis reports⁷ within 45 days after the November 24, 2020 hearing for the Board and BETA Group peer review.

Traffic Impact Analysis – Section 3.2.14

The supplemental Completeness Review memo notes the date of the Traffic Impact Access Study (April 2014) has not been updated.

Response: Applicant will work with BETA Group as to acceptable parameters on the updated traffic study. Once the traffic professionals have reached agreement on methodology/scope of review, an updated traffic impact analysis will be submitted within 30 days thereafter to the Board and BETA Group for peer review. The timing of the submittal of the traffic study is expected to be clarified on or before the next Board hearing, on October 13.

⁶ 760 CMR 56.07(3)(a) provides that within an appeal, where a municipality has failed to satisfy the grounds of 56.03(1), there is a rebuttable presumption that the need for affordable housing outweighs Local Concerns. As stated in 760 CMR 56.05(4) (Scope of Board Hearing), “in the conduct of a [board] hearing, the Board should make itself aware of the detailed provisions for burden of proof and evidence” as set forth in 760 CMR 5.07(2) and (3), that the Committee would apply to the appeal of a Board decision.

⁷ Applicant’s updated waiver list to be submitted in November likewise may include waiver of certain details described in 3.2.13 and 3.2.15; in such event, the updated waiver list will reflect such waiver request.

Statement of Demonstration of Compliance with Master Plan/Open Space Plan – Section 3.2.16

The supplemental Completeness Review memo states that such statement is incomplete.

Response: As noted previously, the application included a statement as to consistency with sustainable development principles as found at Pages 23-25 of the Comprehensive Permit Application. Together with the revised design engineered drawings, to be submitted on November 3, 2020, Applicant will also file a statement of compliance with Master Plan/Open Space plan.

Roster of Development Team Members – Section 3.2.17

The supplemental completeness memo recognized that the March 19, 2020 submittal updated the development team members.

List of Abutters/Copies of Application – Section 3.2.18

The supplemental completeness comments that compliance with Section 3.2.18 was “incomplete” but does not detail what is incomplete.

Response: The Applicant submitted the requisite copies (including both sizes of plans and form of media) of the Comprehensive Permit Application to the Town Clerk on September 1, 2016. Further, the certified abutters list is contained at Tab 11 of the Comprehensive Permit Application. Applicant will submit revised engineered plans by November 24, and will include the number of sets (full sized, reduced, digital) as may be requested by the Board.



BOARD OF APPEALS
Town of Arlington
Arlington, Massachusetts 02476

51 Grove Street
Telephone (781) 316-3396

MEMORANDUM

Sept. 15, 2020

Re: Revised Hearing Schedule Discussed on Sept. 11, 2020 Coordination Call

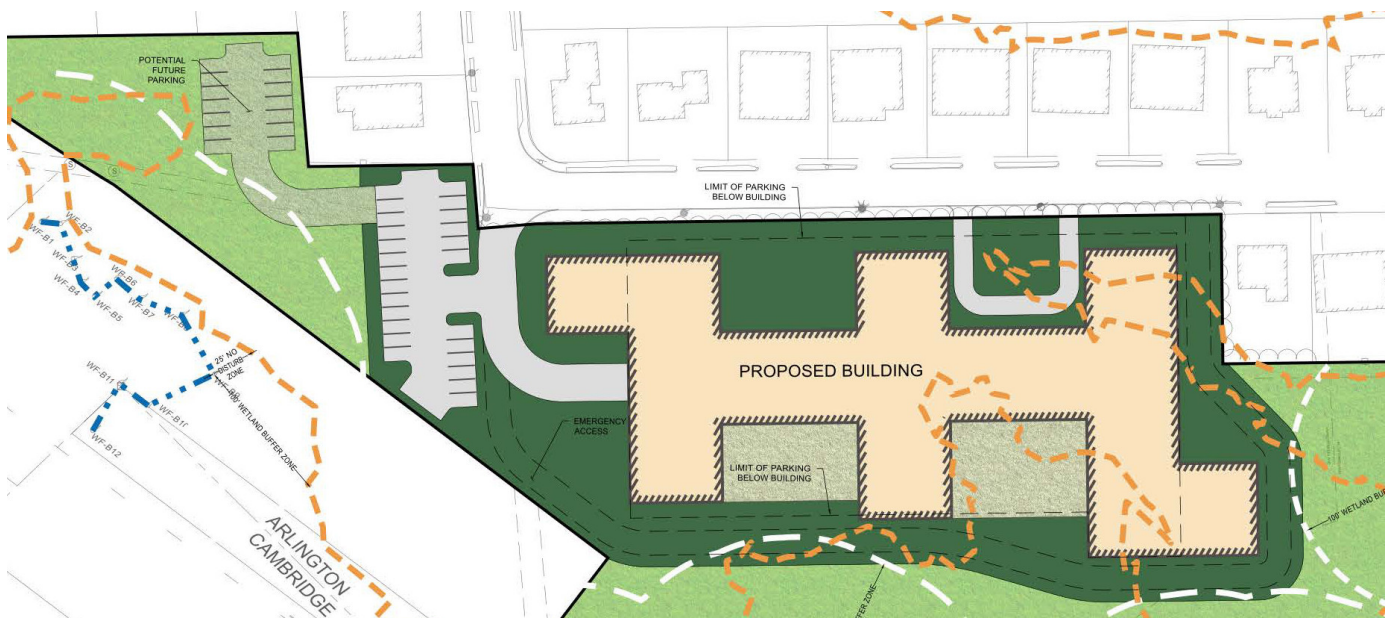
Representatives from the Board of Appeals, the Department of Planning and Community Development, the Legal Department, and the Applicant for Thorndike Place met via conference call on Friday, Sept. 11, 2020 to review the status of the review of the comprehensive permit application. Based on comments received from the Town's peer-review engineers, BETA Group, the Applicant is proposing to revise their site plan. In order to allow review of the proposed revisions ahead of resuming hearings, the attendees agreed to the following schedule:

- Sept. 22 / 29: BSC to deliver revised site plans and comparison documents to Town with distribution to Board of Appeals (ZBA), Department of Planning and Community Development (DPCD), Conservation Commission (ConComm), and BETA Group.
- Oct. 1: Meeting: ConComm to review revised site plans and comparison documents and provide comments. The recommendation is to use this meeting as a working session to foster an open discussion of the proposal.
- Oct. 13: Hearing: ZBA to review revised site plans, comparison documents, and comments received. Based upon comments received at this hearing, the Applicant is to proceed with detailed engineering analysis and preparation of detailed drawings.
- Nov: 3: BSC to deliver detailed engineering drawings and analyses to Town with distribution to ZBA, DPCD, ConComm, and BETA Group.
- Nov. 24: Hearing: ZBA to review detailed engineering drawings, analyses, and comments received.

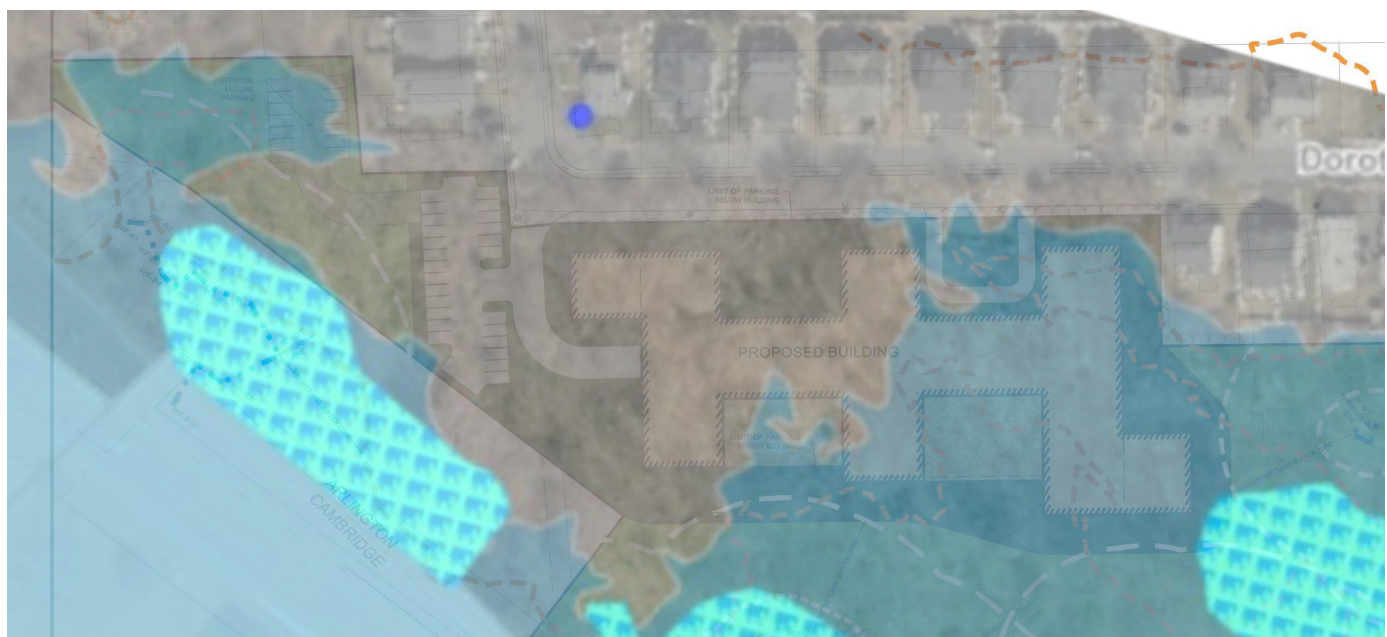
The revised traffic study was mentioned, but a schedule for development and delivery was not discussed. It is presently on the agenda for the Nov. 10 hearing.

Christian Klein
ZBA Chair

Thorndike Survey of Floodplain



FEMA defined Floodplain



Sept 28 Plan claims only 17,237 sf

“THORNDIKE PLACE” COMPREHENSIVE PERMIT CONTINUED PUBLIC HEARING
October 13, 2020

1. Discussion as to status of 180-day hearing schedule (5 minutes)
 - a. Day 49: Today
 - b. Day 180: Feb. 21, 2021
2. Discussion as to completeness of the application before the Board (5 minutes)
 - a. Received revised letter from Atty. Kiefer on September 25, 2020.
 - b. Based on scope of revisions to plans, required data is being revised and will be further revised based on comments received at this hearing.
3. Review of Peer Review funding under Chpt. 44, Sect. 53g (5 minutes)
 - a. Initial sum received by Town
 - b. Additional sum to be requested by Board
4. Presentation of the revised project by the Applicant (30 minutes)
5. Discussion of the revised project by the Board and Consultants (30 minutes)
6. Public comments and questions (30 minutes)
 - a. Due to previously demonstrated interest in this project and to provide an orderly flow to the meeting, the Chair requests that individual public speakers limit their comments to three (3) minutes each. Questions and comments are to be directed to the Board in the interest of informing the Board regarding the topics discussed at the hearing and assisting the Board in reaching a more well-informed decision. Please note that there are multiple hearings scheduled for this project, and each hearing will have an opportunity for public comment. The Chair also encourages the public to provide written comments to be reviewed by the Board and included in the record.
7. Discussion of Board Action (15 minutes)
8. Tentative Schedule for subsequent hearings (10 minutes)
 - a. Traffic flow and safety (Nov. 10)
 - b. Wetland impacts and stormwater management (Nov. 24)
 - c. General civil engineering matters (Dec. 8)
 - d. Architecture, landscape architecture and open space (Dec. 22)
 - e. Density and overall design (Jan. 12)
 - f. Conditions review and Pro forma discussion (Jan. 26)
 - g. Conditions Review and Decision (Feb. 9, Day 168)
9. Continue hearing to date and time certain